

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment of section by section 502 of Pub. L. 89-44 applicable on and after January 1, 1966, see section 701(d) of Pub. L. 89-44, set out as a note under section 5701 of this title.

Chapter 53.—MACHINE GUNS, DESTRUCTIVE DEVICES, AND CERTAIN OTHER FIREARMS

Subchapter

- A. Taxes.
- B. General provisions and exemptions.
- C. Prohibited acts.
- D. Penalties and forfeitures.

Subchapter A.—Taxes

Part

- I. Special (occupational) taxes.
- II. Tax on transferring firearms.
- III. Tax on making firearms.

PART I.—SPECIAL (OCCUPATIONAL) TAXES

Sec.

- 5801. Tax.
- 5802. Registration of importers, manufacturers, and dealers.

AMENDMENTS

1968—Pub. L. 90-618, title II, § 201, Oct. 22, 1968, 82 Stat. 1227, added “, Destructive Devices,” following “Machine Guns” in the chapter heading, added “and exemptions” following “General provisions” and substituted “Prohibited acts” for “Unlawful acts” in the chapter analysis, substituted “Tax on transferring firearms” for “Transfer tax” and “Part IV. Other taxes” in the subchapter analysis, and added “of importers, manufacturers, and dealers” following “Registration” and omitted “Sec. 5803. Exemptions” in the analysis of Part I.

§ 5801. Tax.

On first engaging in business and thereafter on or before the first day of July of each year, every importer, manufacturer, and dealer in firearms shall pay a special (occupational) tax for each place of business at the following rates:

- (1) Importers.—\$500 a year or fraction thereof;
- (2) Manufacturers.—\$500 a year or fraction thereof;
- (3) Dealers.—\$200 a year or fraction thereof.

Except an importer, manufacturer, or dealer who imports, manufactures, or deals in only weapons classified as “any other weapon” under section 5845 (e), shall pay a special (occupational) tax for each place of business at the following rates: Importers, \$25 a year or fraction thereof; manufacturers, \$25 a year or fraction thereof; dealers, \$10 a year or fraction thereof. (As amended Oct. 22, 1968, Pub. L. 90-618, title II, § 201, 82 Stat. 1227.)

AMENDMENTS

1968—Pub. L. 90-618 redesignated former subsec. (a) as the entire subsec., and, as so redesignated, required the special (occupational) tax to be paid for each place of business, struck out the provision which required pawnbrokers to pay a tax of \$300 a year or fraction thereof, struck out the proviso that manufacturers and dealers in guns with combination shotgun and rifle barrels, 12 inches or more but less than 18 inches in length, from which only a single discharge can be made from either barrel without manual reloading, pay the special tax of \$25 a year or fraction thereof for manufacturers and \$10 a year or fraction thereof for dealers, added importers to those required to pay a special (occupational) tax of \$25 a year or fraction thereof, substituted “section 5845(e)” for “section 5848(5)”, and struck out subsec. (b) which set forth a cross reference to section 903 of Title 15, which required a license to transport, ship, or receive firearms or ammunition.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 207 of Pub. L. 90-618 provided that:

“(a) Section 201 of this title [amending this chapter] shall take effect on the first day of the first month following the month in which it is enacted [October, 1968].

“(b) Notwithstanding the provisions of subsection (a) or any other provision of law, any person possessing a firearm as defined in section 5845(a) of the Internal Revenue Code of 1954 (as amended by this title) [section 5845(a) of this title] which is not registered to him in the National Firearms Registration and Transfer Record shall register each firearm so possessed with the Secretary of the Treasury or his delegate in such form and manner as the Secretary or his delegate may require within the thirty days immediately following the effective date of section 201 of this Act [see subsec. (a) of this section]. Such registrations shall become a part of the National Firearms Registration and Transfer Record required to be maintained by section 5841 of the Internal Revenue Code of 1954 (as amended by this title) [section 5841 of this title]. No information or evidence required to be submitted or retained by a natural person to register a firearm under this section shall be used, directly or indirectly, as evidence against such person in any criminal proceeding with respect to a prior or concurrent violation of law.

“(c) The amendments made by sections 202 through 206 of this title [amending sections 6806 and 7273 of this title, repealing sections 5692 and 6107 of this title, and enacting provisions set out as a note under this section] shall take effect on the date of enactment [Oct. 22, 1968].

“(d) The Secretary of the Treasury, after publication in the Federal Register of his intention to do so, is authorized to establish such periods of amnesty, not to exceed ninety days in the case of any single period, and immunity from liability during any such period, as the Secretary determines will contribute to the purposes of this title [amending this chapter, and sections 6806 and 7273 of this title, repealing sections 5692 and 6107 of this title, and enacting provisions set out as notes under this section].”

SHORT TITLE

Section 202 of Pub. L. 90-618 provided that: “The amendments made by section 201 of this title [amending this chapter] shall be cited as the ‘National Firearms Act Amendments of 1968.’”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5845, 5851, 5861 of this title.

§ 5802. Registration of importers, manufacturers, and dealers.

On first engaging in business and thereafter on or before the first day of July of each year, each importer, manufacturer, and dealer in firearms shall register with the Secretary or his delegate in each internal revenue district in which such business is to be carried on, his name, including any trade name, and the address of each location in the district where he will conduct such business. Where there is a change during the taxable year in the location of, or the trade name used in, such business, the importer, manufacturer, or dealer shall file an application with the Secretary or his delegate to amend his registration. Firearms operations of an importer, manufacturer, or dealer may not be commenced at the new location or under a new trade name prior to approval by the Secretary or his delegate of the application. (As amended Oct. 22, 1968, Pub. L. 90-618, title II, § 201, 82 Stat. 1227.)

AMENDMENTS

1968—Pub. L. 90-618 added “of importers, manufacturers, and dealers” following “Registration” in the section catchline, struck out the registration requirement of the registrant’s principal place of business, added the registration requirement of the registrant’s trade name,

and provided that the registrant, prior to any change during the taxable year in the location of, or trade name used in, his business, file an application to amend his registration, and obtain approval of the Secretary or his delegate of the change.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-618 effective on the first day of the first month following October, 1968, see section 207 of Pub. L. 90-618, set out as a note under section 5801 of this title.

Section 5803, setting forth a cross reference to section 5812 exempting certain transfers, was omitted in the general revision of this chapter by Pub. L. 90-618, title II, § 201, Oct. 22, 1968, 82 Stat. 1227.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5861 of this title.

PART II.—TAX ON TRANSFERRING FIREARMS

Sec.

5811. Transfer tax.

5812. Transfers.

AMENDMENTS

1968—Pub. L. 90-618, title II, § 201, Oct. 22, 1968, 82 Stat. 1228, substituted "Transfer Tax" for "Tax" in item 5811, and "Transfers" for "Exemptions" in item 5812, and struck out item 5813 "Stamps" and item 5814 "Order forms".

§ 5811. Transfer tax.

(a) Rate.

There shall be levied, collected, and paid on firearms transferred a tax at the rate of \$200 for each firearm transferred, except, the transfer tax on any firearm classified as any other weapon under section 5845(e) shall be at the rate of \$5 for each such firearm transferred.

(b) By whom paid.

The tax imposed by subsection (a) of this section shall be paid by the transferor.

(c) Payment.

The tax imposed by subsection (a) of this section shall be payable by the appropriate stamps prescribed for payment by the Secretary or his delegate. (As amended Oct. 22, 1968, Pub. L. 90-618, title II, § 201, 82 Stat. 1228.)

AMENDMENTS

1968—Pub. L. 90-618 substituted "Transfer tax" for "Tax" in the section catchline.

Subsec. (a). Pub. L. 90-618 struck out the proviso that the transfer tax on any gun with combination shotgun and rifle barrels, 12 inches or more but less than 18 inches in length, from which only a single discharge can be made from either barrel without manual loading, be at the rate of \$5, substituted "section 5845(e)" for "section 5848(5)", and struck out the provision that the tax imposed by this section is in addition to any import duty imposed on such firearm.

Subsec. (b). Pub. L. 90-618 added reference to subsection (a) of this section, and struck out the proviso that if a firearm is transferred without payment of the transfer tax, the transferor and transferee are jointly and severally liable for the tax.

Subsec. (c). Pub. L. 90-618 substituted "Payment" for "How paid—(1) Stamps" in the subsec. heading, and added reference to subsection (a) of this section.

Subsec. (d). Pub. L. 90-618 struck out subsec. (d) which set forth cross references to sections 4181, 5801, 5802, 6155 (a), 6201(a), and 6601(c) (4) of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-618 effective on the first day of the first month following October 1968, see section 207 of Pub. L. 90-618, set out as a note under section 5801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5845, 5852-5854 of this title.

§ 5812. Transfers.

(a) Application.

A firearm shall not be transferred unless (1) the transferor of the firearm has filed with the Secretary or his delegate a written application, in duplicate, for the transfer and registration of the firearm to the transferee on the application form prescribed by the Secretary or his delegate; (2) any tax payable on the transfer is paid as evidenced by the proper stamp affixed to the original application form; (3) the transferee is identified in the application form in such manner as the Secretary or his delegate may by regulations prescribe, except that, if such person is an individual, the identification must include his fingerprints and his photograph; (4) the transferor of the firearm is identified in the application form in such manner as the Secretary or his delegate may by regulations prescribe; and (5) the firearm is identified in the application form in such manner as the Secretary or his delegate may by regulations prescribe; and (6) the application form shows that the Secretary or his delegate has approved the transfer and the registration of the firearm to the transferee. Applications shall be denied if the transfer, receipt, or possession of the firearm would place the transferee in violation of law.

(b) Transfer of possession.

The transferee of a firearm shall not take possession of the firearm unless the Secretary or his delegate has approved the transfer and registration of the firearm to the transferee as required by subsection (a) of this section. (As amended Oct. 22, 1968, Pub. L. 90-618, title II, § 201, 82 Stat. 1228.)

AMENDMENTS

1968—Pub. L. 90-618 substituted "Transfers" for "Exemptions" in the section catchline.

Subsec. (a). Pub. L. 90-618 substituted "Application" for "Transfers exempt" in the subsec. catchline, and substituted provisions requiring the transferor to file with the Secretary or his delegate an application to transfer a firearm and receive approval prior to any transfer, provisions requiring any past due tax to be paid prior to any transfer, and provisions setting forth the information the application form shall contain, for provisions setting forth transfers exempt from the provisions of this chapter.

Subsec. (b). Pub. L. 90-618 substituted "Transfer of possession" for "Notice of exemption" in the subsec. catchline, and substituted provisions that the transferee of a firearm not take possession unless the Secretary or his delegate has approved the transfer and registration of the firearm to the transferee for provisions that in the case of exempted transfers, the transferor shall notify the Secretary or his delegate of the name and address of the applicant, the identifying mark of the firearm, and the date of transfer, and shall file the necessary documents in proof as the regulations prescribe.

Subsec. (c). Pub. L. 90-618 struck out subsec. (c) which set forth a cross reference to section 4182(a) of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-618 effective on the first day of the first month following October, 1968, see section 207 of Pub. L. 90-618, set out as a note under section 5801 of this title.

Section 5813, relating to the affixing of the required stamps to the order form for the firearm, was omitted in the general revision of this chapter by Pub. L. 90-618, title II, § 201, Oct. 22, 1968, 82 Stat. 1228.

Section 5814, relating to the order forms required for the transfer of a firearm, was omitted in the general revision of this chapter by Pub. L. 90-618, title II, § 201, Oct. 22, 1968, 82 Stat. 1228.

PART III.—TAX ON MAKING FIREARMS

Sec.
5821. Making tax.
5822. Making.

AMENDMENTS

1968—Pub. L. 90-618, title II, § 201, Oct. 22, 1968, 82 Stat. 1228, substituted "Making tax" for "Rate, exceptions, etc" in item 5821, and added item 5822 "Making".

§ 5821. Making tax.

(a) Rate.

There shall be levied, collected, and paid upon the making of a firearm a tax at the rate of \$200 for each firearm made.

(b) By whom paid.

The tax imposed by subsection (a) of this section shall be paid by the person making the firearm.

(c) Payment.

The tax imposed by subsection (a) of this section shall be payable by the stamp prescribed for payment by the Secretary or his delegate. (As amended Oct. 22, 1968, Pub. L. 90-618, title II, § 201, 82 Stat. 1228.)

AMENDMENTS

1968—Pub. L. 90-618 substituted "Making tax" for "Rate, exceptions, etc" in the section catchline.

Subsec. (a). Pub. L. 90-618 struck out the reference to the making in the United States of the firearm by manufacture, putting together, alteration, any combination thereof, or otherwise.

Subsec. (b). Pub. L. 90-618 substituted "By whom paid" for "Exceptions" in the subsec. catchline, and substituted provisions requiring the tax imposed by subsec. (a) of this section be paid by the person making the firearm for provisions setting forth exceptions to the tax imposed upon the making of a firearm.

Subsec. (c). Pub. L. 90-618 substituted "Payment" for "By whom paid; when paid" in the subsec. catchline, and substituted provisions requiring the tax imposed by subsec. (a) of this section to be paid by the stamped prescribed for payment by the Secretary or his delegate for provisions requiring the tax imposed upon the making of a firearm to be paid by the person making the firearm, and in advance of the making of the firearm.

Subsec. (d). Pub. L. 90-618 struck out subsec. (d) which required that the payment of the tax imposed be represented by the appropriate stamps to be provided by the Secretary or his delegate.

Subsec. (e). Pub. L. 90-618 struck out subsec. (e), which required persons subject to the tax imposed upon the making of a firearm, prior to such making, to declare in writing their intention to make a firearm, to affix the required stamps to the original of such declaration, and to file the original and a copy thereof in the proper place, the original of the declaration, with the stamp affixed, to be returned to the declarant.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-618 effective on the first day of the first month following October, 1968, see section 207 of Pub. L. 90-618, set out as a note under section 5801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5845, 5852, 5853 of this title.

§ 5822. Making.

No person shall make a firearm unless he has (a) filed with the Secretary or his delegate a written application, in duplicate, to make and register the fire-

arm on the form prescribed by the Secretary or his delegate; (b) paid any tax payable on the making and such payment is evidenced by the proper stamp affixed to the original application form; (c) identified the firearm to be made in the application form in such manner as the Secretary or his delegate may by regulations prescribe; (d) identified himself in the application form in such manner as the Secretary or his delegate may by regulations prescribe, except that, if such person is an individual, the identification must include his fingerprints and his photograph; and (e) obtained the approval of the Secretary or his delegate to make and register the firearm and the application form shows such approval. Applications shall be denied if the making or possession of the firearm would place the person making the firearm in violation of law. (Added Pub. L. 90-618, title II, § 201, Oct. 22, 1968, 82 Stat. 1228.)

EFFECTIVE DATE

Section effective on the first day of the first month following October, 1968, see section 207(a) of Pub. L. 90-618, set out as a note under section 5801 of this title.

Section 5831, setting forth a cross reference to section 4181 of this title relating to an excise tax on pistols, revolvers, and firearms, and the analysis "Part IV—Other Taxes", consisting of section 5831 of this title, was omitted in the general revision of this chapter by Pub. L. 90-618, title II, § 201, Oct. 22, 1968, 82 Stat. 1229.

Subchapter B.—General Provisions and Exemptions

Part

- I. General provisions.
- II. Exemptions.

PART I.—GENERAL PROVISIONS

Sec.

- 5841. Registration of firearms.
- 5842. Identification of firearms.
- 5843. Records and returns.
- 5844. Importation.
- 5845. Definitions.
- 5846. Other laws applicable.
- 5847. Effect on other law.
- 5848. Restrictive use of information.
- 5849. Citation of chapter.

AMENDMENTS

1968—Pub. L. 90-618, title II, § 201, Oct. 22, 1968, 82 Stat. 1229, added "and Exemptions" following "General Provisions" in the subchapter heading, added analysis of parts comprising subchapter, designated existing analysis of sections 5841-5849 as "Part I—General Provisions", and substituted "Registration of firearms" for "Registration of persons in general" in item 5841, "Identification of firearms" for "Books, records and returns" in item 5842, "Records and returns" for "Identification of firearms" in item 5843, "Importation" for "Exportation" in item 5844, "Definitions" for "Importation" in item 5845, "Effect on other law" for "Regulations" in item 5847, and "Restrictive use of information" for "Definitions" in item 5848.

§ 5841. Registration of firearms.

(a) Central registry.

The Secretary or his delegate shall maintain a central registry of all firearms in the United States which are not in the possession or under the control of the United States. This registry shall be known as the National Firearms Registration and Transfer Record. The registry shall include—

- (1) identification of the firearm;
- (2) date of registration; and
- (3) identification and address of person entitled to possession of the firearm.

(b) By whom registered.

Each manufacturer, importer, and maker shall register each firearm he manufactures, imports, or makes. Each firearm transferred shall be registered to the transferee by the transferor.

(c) How registered.

Each manufacturer shall notify the Secretary or his delegate of the manufacture of a firearm in such manner as may by regulations be prescribed and such notification shall effect the registration of the firearm required by this section. Each importer, maker, and transferor of a firearm shall, prior to importing, making, or transferring a firearm, obtain authorization in such manner as required by this chapter or regulations issued thereunder to import, make, or transfer the firearm, and such authorization shall effect the registration of the firearm required by this section.

(d) Firearms registered on effective date of this Act.

A person shown as possessing a firearm by the records maintained by the Secretary or his delegate pursuant to the National Firearms Act in force on the day immediately prior to the effective date of the National Firearms Act of 1968 shall be considered to have registered under this section the firearms in his possession which are disclosed by that record as being in his possession.

(e) Proof of registration.

A person possessing a firearm registered as required by this section shall retain proof of registration which shall be made available to the Secretary or his delegate upon request. (As amended Oct. 22, 1968, Pub. L. 90-618, title II, § 201, 82 Stat. 1229.)

REFERENCE IN TEXT

The effective date of this Act, referred to in catchline to subsec. (d) is Nov. 1, 1968. See Effective Date of 1968 Amendment note set out below.

The National Firearms Act, referred to in subsec. (d), is this chapter.

The effective date of the National Firearms Act of 1968, referred to in subsec. (d), is Nov. 1, 1968. See Effective Date of 1968 Amendment note set out below.

CODIFICATION

The National Firearms Act of 1968 probably means the National Firearms Act Amendments of 1968. See Short Title note set out under section 5801 of this title.

AMENDMENTS

1968—Pub. L. 90-618 substituted "Registration of firearms" for "Registration of persons in general" in the section catchline, designated existing provisions as subsec. (a), and, as so designated, added subsec. catchline "Central registry", and substituted provisions authorizing the Secretary or his delegate to maintain a central registry of firearms not under the control of the United States for provisions requiring every person possessing a firearm to register the identifying mark of such firearm, together with his name, address, place where such firearm is usually kept, and place of business or employment, and provisions exempting persons from the registration requirement of this section where such persons acquired a firearm by transfer or importation or which such person made, if the provisions of this chapter applied to such transfer, importation, or making and such provisions were complied with, and added subsecs. (b)–(e).

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-618 effective on the first day of the first month following October, 1968, see section 207 of Pub. L. 90-618, set out as a note under section 5801 of this title.

§ 5842. Identification of firearms.**(a) Identification of firearms other than destructive devices.**

Each manufacturer and importer and anyone making a firearm shall identify each firearm, other than a destructive device, manufactured, imported, or made by a serial number which may not be readily removed, obliterated, or altered, the name of the manufacturer, importer, or maker, and such other identification as the Secretary or his delegate may by regulations prescribe.

(b) Firearms without serial number.

Any person who possesses a firearm, other than a destructive device, which does not bear the serial number and other information required by subsection (a) of this section shall identify the firearm with a serial number assigned by the Secretary or his delegate and any other information the Secretary or his delegate may by regulations prescribe.

(c) Identification of destructive device.

Any firearm classified as a destructive device shall be identified in such manner as the Secretary or his delegate may by regulations prescribe. (As amended Oct. 22, 1968, Pub. L. 90-618 title II, § 201, 82 Stat. 1230.)

AMENDMENTS

1968—Pub. L. 90-618 substituted "Identification of firearms" for "Books, records and returns" in the section catchline, designated existing provisions as subsec. (a), added the subsec. heading to subsec. (a), and, as so designated, substituted provisions requiring each manufacturer, importer, and anyone making a firearm to identify each firearm, other than a destructive device, with a serial number, and such other identification as may be by regulations prescribed, for provisions requiring importers, manufacturers, and dealers to keep such books and records and render such returns as may be by regulation required, and added subsecs. (b) and (c) and subsec. catchlines thereto.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-618 effective on the first day of the first month following October, 1968, see section 207 of Pub. L. 90-618, set out as a note under section 5801 of this title.

§ 5843. Records and returns.

Importers, manufacturers, and dealers shall keep such records of, and render such returns in relation to, the importation, manufacture, making, receipt, and sale, or other disposition, of firearms as the Secretary or his delegate may by regulations prescribe. (As amended Oct. 22, 1968, Pub. L. 90-618, title II, § 201, 82 Stat. 1230.)

AMENDMENTS

1968—Pub. L. 90-618 substituted "Records and returns" for "Identification of firearms" in the section catchline, and substituted provisions requiring importers, manufacturers, and dealers to keep such records and render such returns as may be prescribed by regulations for provisions requiring each manufacturer and importer to identify each firearm with identification marks approved by the Secretary or his delegate, such marks stamped or otherwise placed thereon in a manner approved by the Secretary or his delegate.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-618 effective on the first day of the first month following October, 1968, see section 207 of Pub. L. 90-618, set out as a note under section 5801 of this title.

§ 5844. Importation.

No firearm shall be imported or brought into the United States or any territory under its control or jurisdiction unless the importer establishes, under regulations as may be prescribed by the Secretary or his delegate, that the firearm to be imported or brought in is—

- (1) being imported or brought in for the use of the United States or any department, independent establishment, or agency thereof or any State or possession or any political subdivision thereof; or
- (2) being imported or brought in for scientific or research purposes; or
- (3) being imported or brought in solely for testing or use as a model by a registered manufacturer or solely for use as a sample by a registered importer or registered dealer;

except that, the Secretary or his delegate may permit the conditional importation or bringing in of a firearm for examination and testing in connection with classifying the firearm. (As amended Oct. 22, 1968, Pub. L. 90-619, title II, § 201, 82 Stat. 1230.)

AMENDMENTS

1968—Pub. L. 90-618 substituted "Importation" for "Exportation" in the section catchline, and substituted provisions authorizing the importation of a firearm into the United States or any territory under the specified conditions only for provisions authorizing the Secretary or his delegate, upon proof of exportation of a firearm to a foreign country, to refund to the manufacturer, or to the exporter if the manufacturer waives the claim to the refund, the amount of the tax paid on the firearm.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-618 effective on the first day of the first month following October, 1968, see section 207 of Pub. L. 90-618, set out as a note under section 5801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5861 of this title.

§ 5845. Definitions.

For the purpose of this chapter—

(a) Firearm.

The term "firearm" means (1) a shotgun having a barrel or barrels of less than 18 inches in length; (2) a weapon made from a shotgun if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 18 inches in length; (3) a rifle having a barrel or barrels of less than 16 inches in length; (4) a weapon made from a rifle if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length; (5) any other weapon, as defined in subsection (e); (6) a machinegun; (7) a muffler or a silencer for any firearm whether or not such firearm is included within this definition; and (8) a destructive device. The term "firearm" shall not include an antique firearm or any device (other than a machinegun or destructive device) which, although designed as a weapon, the Secretary or his delegate finds by reason of the date of its manufacture, value, design, and other characteristics is primarily a collector's item and is not likely to be used as a weapon.

(b) Machinegun.

The term "machinegun" means any weapon which shoots, is designed to shoot, or can be readily re-

stored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any combination of parts designed and intended for use in converting a weapon into a machinegun, and any combination of parts from which a machinegun can be assembled if such parts are in the possession or under the control of a person.

(c) Rifle.

The term "rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger, and shall include any such weapon which may be readily restored to fire a fixed cartridge.

(d) Shotgun.

The term "shotgun" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of projectiles (ball shot) or a single projectile for each pull of the trigger, and shall include any such weapon which may be readily restored to fire a fixed shotgun shell.

(e) Any other weapon.

The term "any other weapon" means any weapon or device capable of being concealed on the person from which a shot can be discharged through the energy of an explosive, a pistol or revolver having a barrel with a smooth bore designed or redesigned to fire a fixed shotgun shell, weapons with combination shotgun and rifle barrels 12 inches or more, less than 18 inches in length, from which only a single discharge can be made from either barrel without manual reloading, and shall include any such weapon which may be readily restored to fire. Such terms shall not include a pistol or a revolver having a rifled bore, or rifled bores, or weapons designed, made, or intended to be fired from the shoulder and not capable of firing fixed ammunition.

(f) Destructive device.

The term "destructive device" means (1) any explosive, incendiary, or poison gas (A) bomb, (B) grenade, (C) rocket having a propellant charge of more than four ounces, (D) missile having an explosive or incendiary charge of more than one-quarter ounce, (E) mine, or (F) similar device; (2) any type of weapon by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, the barrel or barrels of which have a bore of more than one-half inch in diameter, except a shotgun or shotgun shell which the Secretary or his delegate finds is generally recognized as particularly suitable for sporting purposes; and (3) any combination of parts either designed or intended for use in converting any device into a destructive device as defined in subparagraphs (1) and (2) and from which a destructive device may be readily assembled. The term "destructive device" shall not include any device which is neither designed nor

redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section 4684(2), 4685, or 4686 of title 10 of the United States Code; or any other device which the Secretary of the Treasury or his delegate finds is not likely to be used as a weapon, or is an antique or is a rifle which the owner intends to use solely for sporting purposes.

(g) **Antique firearm.**

The term "antique firearm" means any firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898) and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(h) **Unserviceable firearm.**

The term "unserviceable firearm" means a firearm which is incapable of discharging a shot by means of an explosive and incapable of being readily restored to a firing condition.

(i) **Make.**

The term "make", and the various derivatives of such word, shall include manufacturing (other than by one qualified to engage in such business under this chapter), putting together, altering, any combination of these, or otherwise producing a firearm.

(j) **Transfer.**

The term "transfer" and the various derivatives of such word, shall include selling, assigning, pledging, leasing, loaning, giving away, or otherwise disposing of.

(k) **Dealer.**

The term "dealer" means any person, not a manufacturer or importer, engaged in the business of selling, renting, leasing, or loaning firearms and shall include pawnbrokers who accept firearms as collateral for loans.

(l) **Importer.**

The term "importer" means any person who is engaged in the business of importing or bringing firearms into the United States.

(m) **Manufacturer.**

The term "manufacturer" means any person who is engaged in the business of manufacturing firearms. (As amended Oct. 22, 1968, Pub. L. 90-618, title II, § 201, 82 Stat. 1230.)

AMENDMENT

1968—Pub. L. 90-618 substituted "Definitions" for "Importation" in the section catchline, and substituted provisions defining the terms "Firearm", "Machinegun", "Rifle", "Shotgun", "Any other weapon", "Destructive device", "Antique firearm", "Unserviceable firearm", "Make", "Transfer", "Dealer", "Importer", and "Manufacturer" for provisions prohibiting the importation of any firearm into the United States or any territory except

when the purpose is shown to be lawful and such firearm is unique or of a type which cannot be obtained within the United States or such territory.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-618 effective on the first day of the first month following October, 1968, except as to persons possessing firearms as defined in subsec. (a) of this section which are not registered to such persons in the National Firearms Registration and Transfer Record, see section 207 of Pub. L. 90-618, set out as a note under section 5801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5801, 5811 of this title.

§ 5846. Other laws applicable.

All provisions of law relating to special taxes imposed by chapter 51 and to engraving, issuance, sale, accountability, cancellation, and distribution of stamps for tax payment shall, insofar as not inconsistent with the provisions of this chapter, be applicable with respect to the taxes imposed by sections 5801, 5811, and 5821. (As amended Oct. 22, 1968, Pub. L. 90-618, title II, § 201, 82 Stat. 1232.)

AMENDMENTS

1968—Pub. L. 90-618 substituted provisions that all provisions of law relating to special taxes imposed by chapter 51 and to engraving, etc., of stamps for tax payment shall, insofar as not inconsistent with the provisions of this chapter, be applicable with respect to the taxes imposed by sections 5801, 5811, and 5821 of this title for provisions that all provisions of law (including those relating to special taxes, to the assessment, etc., of internal revenue taxes, to the engraving, etc., of taxpaid stamps provided for in the internal revenue laws, and to penalties) applicable with respect to the taxes imposed by sections 4701 and 4721, and all other provisions of the internal revenue laws shall, insofar as not inconsistent with the provisions of this chapter, be applicable with respect to the taxes imposed by section 5811 (a), 5821(a), and 5801.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-618 effective on the first day of the first month following October, 1968, see section 207 of Pub. L. 90-618, set out as a note under section 5801 of this title.

§ 5847. Effect on other laws.

Nothing in this chapter shall be construed as modifying or affecting the requirements of section 414 of the Mutual Security Act of 1954, as amended, with respect to the manufacture, exportation, and importation of arms, ammunition, and implements of war. (As amended Oct. 22, 1968, Pub. L. 90-618, title II, § 201, 82 Stat. 1232.)

REFERENCES IN TEXT

Section 414 of the Mutual Security Act of 1954, as amended, referred to in the text, is classified to section 1934 of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

1968—Pub. L. 90-618 substituted "Effect on other laws" for "Regulations" in the section catchline, and substituted provisions that nothing in this chapter shall be construed as modifying or affecting the requirements of section 414 of the Mutual Security Act of 1954, as amended, for provisions that authorized the Secretary or his delegate to prescribe such regulations as may be necessary to carry out the provisions of this chapter.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-618 effective on the first day of the first month following October, 1968, see section 207 of Pub. L. 90-618, set out as a note under section 5801 of this title.

§ 5848. Restrictive use of information.**(a) General rule.**

No information or evidence obtained from an application, registration, or records required to be submitted or retained by a natural person in order to comply with any provision of this chapter or regulations issued thereunder, shall, except as provided in subsection (b) of this section, be used, directly or indirectly, as evidence against that person in a criminal proceeding with respect to a violation of law occurring prior to or concurrently with the filing of the application or registration, or the compiling of the records containing the information or evidence.

(b) Furnishing false information.

Subsection (a) of this section shall not preclude the use of any such information or evidence in a prosecution or other action under any applicable provision of law with respect to the furnishing of false information. (As amended Oct. 22, 1968, Pub. L. 90-618, title II, § 201, 82 Stat. 1232.)

AMENDMENTS

1968—Pub. L. 90-618 substituted "Restrictive use of information" for "Definitions" in the section catchline, and substituted provisions restricting the use of information or evidence supplied by a natural person in order to comply with the provisions of this chapter to a prosecution or other action under any applicable provision of law with respect to the furnishing of false information for provisions defining the terms "Firearm", "Machine gun", "Rifle", "Shotgun", "Any other weapon", "Importer", "Manufacturer", "Dealer", "Interstate commerce", "To transfer or transferred", and "Person". See section 5845 of this title for definition of terms.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-618 effective on the first day of the first month following October, 1968, see section 207 of Pub. L. 90-618 set out as a note under section 5801 of this title.

§ 5849. Citation of chapter.

This chapter may be cited as the "National Firearms Act" and any reference in any other provision of law to the "National Firearms Act" shall be held to refer to the provisions of this chapter. (As amended Pub. L. 90-618, title II, § 201, Oct. 22, 1968, 82 Stat. 1232.)

AMENDMENTS

1968—Pub. L. 90-618 reenacted section without change.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-618 effective on the first day of the first month following October, 1968, see section 207 of Pub. L. 90-618, set out as a note under section 5801 of this title.

PART II.—EXEMPTIONS**Sec.**

5851. Special (occupational) tax exemption.

5852. General transfer and making exemption.

5853. Exemption from transfer and making tax available to certain governmental entities and officials.¹

5854. Exportation of firearms exempt from transfer tax.

AMENDMENTS

1968—Pub. L. 90-618 title II, § 201, Oct. 22, 1968, 82 Stat. 1233, substituted "Part II—Exemptions" for "SUBCHAPTER C—UNLAWFUL ACTS" as the heading for sections 5851—5854, substituted "Special (occupational) tax exemption" for "Possessing firearms illegally" in item 5851, "General transfer and making exemption" for "Re-

moving or changing identification marks" in item 5852, "Exemption from transfer and making tax available to certain governmental entities and officials" for "Importing firearms illegally" in item 5853, and "Exportation of firearms exempt from transfer tax" for "Failure to register and pay special tax" in item 5854, and omitted item 5855 "Unlawful transportation in interstate commerce".

§ 5851. Special (occupational) tax exemption.**(a) Business with United States.**

Any person required to pay special (occupational) tax under section 5801 shall be relieved from payment of that tax if he establishes to the satisfaction of the Secretary or his delegate that his business is conducted exclusively with, or on behalf of, the United States or any department, independent establishment, or agency thereof. The Secretary or his delegate may relieve any person manufacturing firearms for, or on behalf of, the United States from compliance with any provision of this chapter in the conduct of such business.

(b) Application.

The exemption provided for in subsection (a) of this section may be obtained by filing with the Secretary or his delegate an application on such form and containing such information as may be regulations be prescribed. The exemptions must thereafter be renewed on or before July 1 of each year. Approval of the application by the Secretary or his delegate shall entitle the applicant to the exemptions stated on the approved application. (As amended Oct. 22, 1968, Pub. L. 90-618, title II, § 201, 82 Stat. 1233.)

AMENDMENTS

1968—Pub. L. 90-618 substituted "Special (occupational) tax exemption" for "Possessing firearms illegally" in the section catchline, and substituted provisions exempting, upon application to the Secretary or his delegate, any person required to pay the special (occupational) tax under section 5801 if such person conducts his business exclusively with, or on behalf of, the United States or any department, etc., for provisions making it unlawful for any person to receive or possess any firearm in violation of sections 5811, 5812(b), 5813, 5814, 5821, 5841, 5844, and 5846 of this title. Former provisions of this section are now covered by section 5861 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-618 effective on the first day of the first month following October, 1968, see section 207 of Pub. L. 90-618, set out as a note under section 5801 of this title.

§ 5852. General transfer and making tax exemption.**(a) Transfer.**

Any firearm may be transferred to the United States or any department, independent establishment, or agency thereof, without payment of the transfer tax imposed by section 5811.

(b) Making by a person other than a qualified manufacturer.

Any firearm may be made by, or on behalf of, the United States, or any department, independent establishment, or agency thereof, without payment of the making tax imposed by section 5821.

(c) Making by a qualified manufacturer.

A manufacturer qualified under this chapter to engage in such business may make the type of firearm which he is qualified to manufacture without payment of the making tax imposed by section 5821.

¹ Item catchline does not conform to section catchline.

(d) Transfers between special (occupational) taxpayers.

A firearm registered to a person qualified under this chapter to engage in business as an importer, manufacturer, or dealer may be transferred by that person without payment of the transfer tax imposed by section 5811 to any other person qualified under this chapter to manufacture, import, or deal in that type of firearm.

(e) Unserviceable firearm.

An unserviceable firearm may be transferred as a curio or ornament without payment of the transfer tax imposed by section 5811, under such requirements as the Secretary or his delegate may by regulations prescribe.

(f) Right to exemption.

No firearm may be transferred or made exempt from tax under the provisions of this section unless the transfer or making is performed pursuant to an application in such form and manner as the Secretary or his delegate may by regulations prescribe. (As amended Oct. 22, 1968, Pub. L. 90-618, title II, § 201, 82 Stat. 1233.)

AMENDMENTS

1968—Pub. L. 90-618 substituted "General transfer and making tax exemption" for "Removing or changing identification marks" and substituted provisions exempting the specified transfers from the transfer tax imposed by section 5811 of this title and the specified makings from the making tax imposed by section 5821 of this title for provisions making it unlawful for anyone to obliterate, etc., the number or other identification mark required by section 5843 of this title. Former provisions of this section are now covered by section 5861 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-618 effective on the first day of the first month following October, 1968, see section 207 of Pub. L. 90-618, set out as a note under section 5801 of this title.

§ 5853. Transfer and making tax exemption available to certain governmental entities.**(a) Transfer.**

A firearm may be transferred without the payment of the transfer tax imposed by section 5811 to any State, possession of the United States, any political subdivision thereof, or any official police organization of such a government entity engaged in criminal investigations.

(b) Making.

A firearm may be made without payment of the making tax imposed by section 5821 by, or on behalf of, any State, or possession of the United States, any political subdivision thereof, or any official police organization of such a government entity engaged in criminal investigations.

(c) Right to exemption.

No firearm may be transferred or made exempt from tax under this section unless the transfer or making is performed pursuant to an application in such form and manner as the Secretary or his delegate may by regulations prescribe. (As amended Oct. 22, 1968, Pub. L. 90-618, title II, § 201, 82 Stat. 1233.)

AMENDMENTS

1968—Pub. L. 90-618 substituted "Transfer and making tax exemption available to certain governmental entities" for "Importing firearms illegally" in the section catchline, and substituted provisions exempting the specified trans-

fers from the transfer tax imposed by section 5811 of this title and the specified makings from the making tax imposed by section 5821 of this title for provisions making it unlawful to import firearms in violation of the provisions of this chapter, and to receive, etc., any such illegally imported firearm. Former provisions of this section are now covered by section 5861 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-618 effective on the first day of the first month following October, 1968, see section 207 of Pub. L. 90-618 set out as a note under section 5801 of this title.

§ 5854. Exportation of firearms exempt from transfer tax.

A firearm may be exported without payment of the transfer tax imposed under section 5811 provided that proof of the exportation is furnished in such form and manner as the Secretary or his delegate may by regulations prescribe. (As amended Pub. L. 90-618, title II, § 201, Oct. 22, 1968, 82 Stat. 1234.)

AMENDMENTS

1968—Pub. L. 90-618 substituted "Exportation of firearms exempt from transfer tax" for "Failure to register and pay special tax" in the section catchline, and substituted provisions authorizing the exportation of a firearm without payment of the transfer tax imposed by section 5811 of this title when proof of exportation is furnished as prescribed by the regulations for provisions making it unlawful for any person required to register under section 5802 to import, etc., without registering and paying the tax imposed by section 5801 of this title. Former provisions of this section are now covered by section 5861 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-618 effective on the first day of the first month following October, 1968, see section 207 of Pub. L. 90-618, set out as a note under section 5801 of this title.

Section 5855, making it unlawful for any person required to comply with the provisions of sections 5814, 5821, and 5841 of this title, to ship, carry or deliver any firearm in interstate commerce if such sections have not been complied with, was omitted in the general revision of this chapter by Pub. L. 90-618, title II, § 201, Oct. 22, 1968, 82 Stat. 1234.

Subchapter C.—Prohibited Acts**AMENDMENTS**

1968—Pub. L. 90-618, title II, § 201, Oct. 22, 1968, 82 Stat. 1234, substituted "Subchapter C—Prohibited Acts" for "Subchapter D—Penalties and Forfeitures" in the subchapter heading, and omitted the subchapter analysis, which was comprised of items 5861 "Penalties" and 5862 "Forfeitures".

§ 5861. Prohibited acts.

It shall be unlawful for any person—

(a) to engage in business as a manufacturer or importer of, or dealer in, firearms without having paid the special (occupational) tax required by section 5801 for his business or having registered as required by section 5802; or

(b) to receive or possess a firearm transferred to him in violation of the provisions of this chapter; or

(c) to receive or possess a firearm made in violation of the provisions of this chapter; or

(d) to receive or possess a firearm which is not registered to him in the National Firearms Registration and Transfer Record; or

(e) to transfer a firearm in violation of the provisions of this chapter; or

(f) to make a firearm in violation of the provisions of this chapter; or

(g) to obliterate, remove, change, or alter the serial number or other identification of a firearm required by this chapter; or

(h) to receive or possess a firearm having the serial number or other identification required by this chapter obliterated, removed, changed, or altered; or

(i) to receive or possess a firearm which is not identified by a serial number as required by this chapter; or

(j) to transport, deliver, or receive any firearm in interstate commerce which has not been registered as required by this chapter; or

(k) to receive or possess a firearm which has been imported or brought into the United States in violation of section 5844; or

(l) to make, or cause the making of, a false entry on any application, return, or record required by this chapter, knowing such entry to be false.

(As amended Oct. 22, 1968, Pub. L. 90-618, title II, § 201, 82 Stat. 1234.)

AMENDMENTS

1968—Pub. L. 90-618 substituted "Prohibited acts" for "Penalties" in the section catchline, and substituted provisions setting forth specific prohibited acts which shall be unlawful for any person to perform for provisions setting forth the penalties for violations of this chapter. Former provisions of this section are now covered by section 5871 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-618 effective on the first day of the first month following October, 1968, see section 207 of Pub. L. 90-618, set out as a note under section 5801 of this title.

Section 5862, relating to the forfeiture and disposal of any firearm involved in any violation of the provisions of this chapter or any regulation promulgated thereunder, was omitted in the general revision of this chapter by Pub. L. 90-618, title II, § 201, Oct. 22, 1968, 82 Stat. 1234. The provisions of section 5862 of this title are covered by section 5872 of this title.

Subchapter D.—Penalties and Forfeitures

Sec.
5871. Penalties.
5872. Forfeitures.

AMENDMENTS

1968—Pub. L. 90-618, title II, § 201, Oct. 22, 1968, 82 Stat. 1234, added subchapter D.

§ 5871. Penalties.

Any person who violates or fails to comply with any provision of this chapter shall, upon conviction, be fined not more than \$10,000, or be imprisoned not more than ten years, or both, and shall become eligible for parole as the Board of Parole shall determine. (Added Pub. L. 90-618, title II, § 201, Oct. 22, 1968, 82 Stat. 1234.)

EFFECTIVE DATE

Section effective on the first day of the first month following October, 1968, see section 207(a) of Pub. L. 90-618, set out as a note under section 5801 of this title.

§ 5872. Forfeitures.

(a) Laws applicable.

Any firearm involved in any violation of the provisions of this chapter shall be subject to seizure and forfeiture, and (except as provided in subsection

(b) all the provisions of internal revenue laws relating to searches, seizures, and forfeitures of unstamped articles are extended to and made to apply to the articles taxed under this chapter, and the persons to whom this chapter applies.

(b) Disposal.

In the case of the forfeiture of any firearm by reason of a violation of this chapter, no notice of public sale shall be required; no such firearm shall be sold at public sale; if such firearm is forfeited for a violation of this chapter and there is no remission or mitigation of forfeiture thereof, it shall be delivered by the Secretary or his delegate to the Administrator of General Services, General Services Administration, who may order such firearm destroyed or may sell it to any State, or possession, or political subdivision thereof, or at the request of the Secretary or his delegate, may authorize its retention for official use of the Treasury Department, or may transfer it without charge to any executive department or independent establishment of the Government for use by it. (Added Pub. L. 90-618, title II, § 201, Oct. 22, 1968, 82 Stat. 1235.)

EFFECTIVE DATE

Section effective on the first day of the first month following October, 1968, see section 207(a) of Pub. L. 90-618, set out as a note under section 5801 of this title.

Subtitle F.—Procedure and Administration

SUBTITLE REFERRED TO IN OTHER SECTIONS

This subtitle is referred to in title 42 section 13051.

Chapter 61.—INFORMATION AND RETURNS

Subchapter A.—Returns and Records

Part

VIII. Designation of income tax payments to Presidential Election Campaign Fund.

AMENDMENTS

1966—Pub. L. 89-809, title III, § 302(b), Nov. 13, 1966, 80 Stat. 1588, added item VIII.

PART I.—RECORDS, STATEMENTS, AND SPECIAL RETURNS

§ 6001. Notice or regulations requiring records, statements, and special returns.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 874 of this title.

PART II.—TAX RETURNS OR STATEMENTS

SUBPART A.—GENERAL REQUIREMENT

§ 6011. General requirement of return, statement, or list.

* * * * *

(c) Repealed. Pub. L. 89-44, title I, § 101(b)(6), June 21, 1965, 79 Stat. 136.

(d) Interest equalization tax returns, etc.

(1) In general.

(A) Every person shall make a return for each calendar quarter during which he incurs liability for the tax imposed by section 4911 or would so incur liability but for the provisions of section 4918. The return shall, in addition to such other information as the Secretary or his delegate may by regulations require, include a list of all acquisitions made by such person during the calendar